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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,720

05/31/2006

Reinhard Weiberle

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EXAMINER

BURCH, MELODY M

ART UNIT

PAPER NUMBER

3657

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/549,720	<b>Applicant(s)</b> WEIBERLE ET AL.	
	<b>Examiner</b> Melody M. Burch	<b>Art Unit</b> 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9, 10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/21/09 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 9, 13, 14, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art figure 4 in view of US Patent 3693114 to Kempf.

Re: claims 9, 13, 14, 15, and 16. Admitted Prior Art figure 4 shows a decentralized electrical braking system comprising: at least four sensors S1-S4 for sensing an actuation of a brake actuating device; at least four wheel-braking modules 10, each wheel-braking module being assigned to a corresponding vehicle wheel and acquiring sensor data and controlling braking of the corresponding vehicle wheel; at least one first communication device as labeled on page 9 of the instant Office action connecting all four wheel-braking modules to one another by connecting to the labeled

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second and third communication devices for exchange of data; an electrical connecting device 12 for connecting each sensor to at least one wheel-braking module; and at least one of a second communication device as labeled and a third communication device as labeled for facilitating at least one of receiving and exchanging data between at least two wheel-braking modules associated with opposite lateral sides of the vehicle, wherein the first, second and third communication devices are parts of the system, wherein a front wheel braking module of a first lateral side of the vehicle (upper left element 10) being connected only to a rear wheel braking module of a second lateral side of the vehicle (lower right element 10) by the second communication device via the first communication device and a front wheel braking module of the second lateral side (lower left element 10) of the vehicle being connected only to a rear wheel braking module of the first lateral side of the vehicle (upper right element 10) by the third communication device via the first communication device.

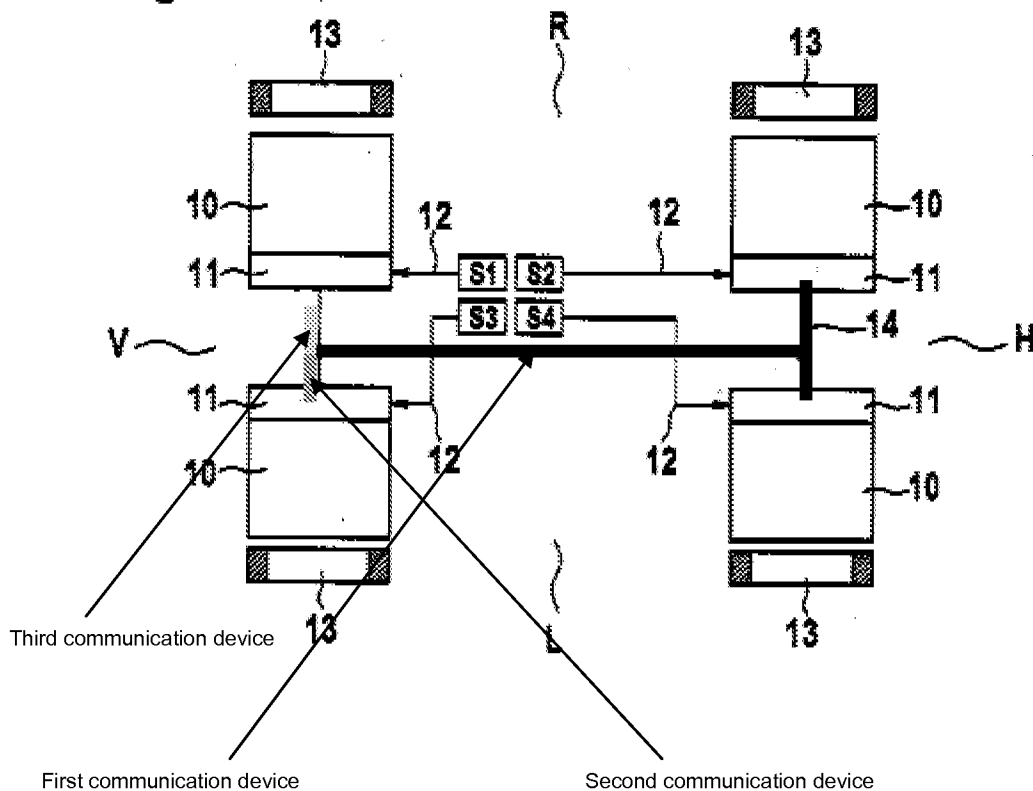
Admitted Prior Art figure 4 shows communication device parts meeting at a junction but is silent with regard to the first second and third communication devices being discrete.

Kempf teaches in figure 1 the use of a first, second, and third communication device 100, 200, and 300, respectively, being discrete components meeting at a junction.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the first, second, and third communication devices of Admitted Prior Art figure 4 to have been discrete components, as taught by Kempf, in

order to provide separate elements that facilitate system repair by enabling only a discrete component to be replaced instead of the entire communication system.

**Fig. 4** *PRIOR ART*



4. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art figure 4 in view of US Patent 6540309 to Jordan et al. and US Patent 5086499 to Mutone.

Admitted Prior Art figure 4, as modified, is silent with regards to the one of the second communication device and the third communication device being configured

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identically with respect to connections to the at least four wheel-braking modules as the first communication device.

Jordan et al. teach in the figure the use of an electronic braking system in which the a second communication device 8 being configured identically with respect to connections to at least four wheel braking modules as a first communication device 7.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the communication device arrangement of Admitted Prior Art figure 4 to have included a second communication device configured identically with respect to connections to the at least four wheel braking modules, as taught by Jordan et al., in order to provide a fault tolerant system for improved reliability and safety.

Admitted Prior Art figure 4, as modified, is silent with regards to each sensor being connected to two wheel braking modules associated with opposite lateral sides of the vehicle.

Mutone teaches in the figure the use of each component 14 and 16 being connected to two modules 17 and 18 as shown in the figure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outputs from each sensor of Admitted Prior Art, as modified, to have been connected to two wheel braking modules associated with opposite lateral sides of the vehicle on the same axle, in view of the teachings of Mutone, in order to provide a means of redundantly detecting and cross checking data as taught by Mutone in col. 1 lines 55-68 for further improving product reliability.

***Response to Arguments***

5. Applicant's arguments filed 5/12/09 have been fully considered but they are not persuasive. Applicant amended the claim to read "wherein the second communication device connects only a front wheel braking module of a first lateral side of the vehicle to a rear wheel braking module of a second lateral side of the vehicle and the third communication device connects only a front wheel-braking module of the second lateral side of the vehicle to a rear wheel braking module of the first lateral side of the vehicle. The amendment overcomes the drawing objection and the 112 first rejection; however, it does not overcome the use of Admitted Prior Art figure 4. As set forth in the annotated version of Admitted Prior Art figure 4 on pg. 4 of the instant Office action, the labeled second communication device connects only a front wheel-braking module 10 of a first lateral side of the vehicle or bottom side to a rear wheel braking module 10 of a second lateral side of the vehicle or top side. Examiner emphasizes that as broadly recited the claim does not preclude the second communication device connecting only the front wheel braking module of a first lateral side of the vehicle to *only* a rear wheel braking module of a second lateral side of the vehicle.

Applicant argues that the rejection using the Kempf reference is "unsupported by an [sic] suggestion in APA and Kempf" and further argues that "Kempf clearly does not in any way suggest that the three separate cables 100, 200, and 300 are provided to 'facilitate system repair by enabling only a discrete component to be replaced'."

Examiner notes that the teaching, suggestion, and motivation test is only one approach

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to considering obviousness. *See KSR Int'l Co. v. Teleflex, Inc.*, 82 USPQ 1385 (2007).

Although Examiner agrees that there is no explicit teaching in Kempf that providing three separate cables instead of one branched cable would permit easier system repair by enabling the replacement of one discrete component instead of the replacement of the entire communication system, Examiner maintains that the suggestion is grounded in the common sense notion that it is easier to replace a piece of a system than to replace the whole system. The Court in *Teleflex* stated that “[r]igid preventative rules that deny factfinders recourse to common sense...are neither necessary under our case law nor consistent with it.” Applicant further argues that increasing the number of parts to obtain an alleged benefit cannot be seen as an improvement. Examiner disagrees and notes that replacing a system of lights connected in series with a system of lights connected in parallel increases the number of parts of the system by the addition of the extra wire arranged in parallel. Although the number of parts is increased, it enables one to replace discrete components that have failed instead of replacing the entire system.

6. Applicant's arguments with respect to claims 10 and 12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb

August 20, 2009

/Melody M. Burch/

Primary Examiner, Art Unit 3657